Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
On July 6, 2005

Date of Meeting: September 27, 2004

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson Arizona, at 5:40 p.m. on Monday, September 27, 2004, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Vice Mayor, Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

Staff Members Present:

James Keene	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Michael D. Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Adam Andrews, Executive Assistant to the Chairwoman of the Tohono O'Odham Nation, after which the pledge of allegiance was led by Jessie Soto, Aide to Council Member Ibarra.

Presentations:

a. Mayor Walkup proclaimed September 27, 2004 to be "American Indian Awareness Day."

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 519, dated September 27, 2004, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

a. Council Member West announced that on September 28, 2004, the Ward 2 Council Office would be hosting a town hall on "Protecting Our Groundwater."

b. Vice Mayor Ronstadt announced the annual "Buddy Walk", supporting the Southern Arizona Network for Down Syndrome, would be held on October 2, 2004 at the DeMeester Auditorium. Also, the Tucson Slavik Festival would take place the first weekend of October.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 520, dated September 27, 2004, would be received into and made a part of the record. He asked for the City Manager's report.

James Keene, City Manager, reported:

a. The week of September 27, 2004 was Architecture Week and there would be a series of activities sponsored by the Southern Arizona Chapter of the American Institute of Architects and in collaboration with the Sonoran Institute, including tours of the Historic Depot.

b. Public relations firm L. P. & G. Management Group would be relocating their offices to the Historic Depot and would be open for business at their new Depot location on October 5, 2004.

c. The September issue of the Smithsonian Magazine included an article featuring Tucson's Gem and Mineral Show.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 515, dated September 27, 2004, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. New Licenses

1. Tom's BBQ — Staff Recommendation
   5443 E. 22nd Street
   Applicant: Robert M. Navarro — Police: In Compliance
   City 053-04, Ward 6 — DSD: In Compliance
   Series 12 — Revenue: In Compliance
   Action must be taken by: October 7, 2004

2. Bumsted's — Staff Recommendation
   500 N. 4th Avenue #11
   Applicant: Jonathan E. Monahan — Police: In Compliance
   City 054-04, Ward 6 — DSD: In Compliance
   Series 12 — Revenue: In Compliance
   Action must be taken by: October 7, 2004

3. Picurro Pizzeria #5 — Staff Recommendation
   9431 E. 22nd Street #137
   Applicant: Mika C. Abera — Police: In Compliance
   City 056-04, Ward 2 — DSD: In Compliance
   Series 12 — Revenue: In Compliance
   Action must be taken by: October 9, 2004
   Public Opinion: Protest Filed
   Support Filed

Considered separately.

c. Special Events

1. Rialto Foundation — Staff Recommendation
   Congress between Aviation & 5th Ave.,
   Broadway between 5th Ave. & Congress — Police: In Compliance
   Applicant: Jeb B. Schoonover — DSD: In Compliance
   City T073-04, Ward 6
   Date of Event: October 16, 2004
   (Fundraiser)

2.	St. Margaret Mary Parish 801 N. Grande Avenue Applicant: Oscar White City T076-04, Ward 1 Date of Event: October 9, 2004 October 10, 2004 (Annual Fiesta) Considered separately.	Staff Recommendation Police: In Compliance DSD: In Compliance
3.	Foundation for Pima Animal Care 288 N. Church Avenue Applicant: Maryann Purnell City T091-04, Ward 1 Date of Event: September 29, 2004 (Recognition/Fundraising)	Staff Recommendation Police: In Compliance DSD: In Compliance

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, that liquor license applications 5b1, 5b2, 5c1 and 5c3 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. New Licenses

3.	Picurro Pizzeria #5 9431 E. 22nd Street #137 Applicant: Mika C. Abera City 056-04, Ward 2 Series 12 Action must be taken by: October 9, 2004 Public Opinion: Protest Filed Support Filed	Staff Recommendation Police: In Compliance DSD: In Compliance Revenue: In Compliance

Kathleen S. Detrick, City Clerk, announced the first license to be considered separately was 5b3, Picurro Pizzeria #5. The license is located in Ward 2. The applicant was present and the protester had not checked in with her.

Council Member West asked the applicant to come forward and tell the Council about their intentions.

Mr. Abera, representing the applicant, said they were strictly beer and wine. They were a family operation.

Council Member West asked if the protester was present. There was no one. She said the Council had received one letter of support from a nearby resident.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 7 to 0, that liquor license application 5b3 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

c. Special Events

2.	St. Margaret Mary Parish 801 N. Grande Avenue Applicant: Oscar White City T076-04, Ward 1 Date of Event: October 9, 2004 October 10, 2004 (Annual Fiesta)	Staff Recommendation Police: In Compliance DSD: In Compliance

Kathleen S. Detrick, City Clerk, announced the final request to be considered separately was Item 5c2, St. Margaret Mary Parish, 801 N. Grande Avenue. A protest was filed. This license is located in Ward 1.

Council Member Ibarra asked if the protester was present. There was no one.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, that liquor license application 5c2 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA ITEMS A THROUGH L

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. TUCSON CODE: AMENDING (CHAPTER 19) UPDATING MODEL CITY TAX CODE REGULATIONS TO PROVIDE FOR ALTERNATE METHODS OF VERIFICATION OF PRIVILEGE TAX RETURNS

1. Report from City Manager SEPT27-04-516 CITY-WIDE

2. Ordinance No. 10043 relating to use finance, amending Tucson Code Reg. § 19-520.1 by adding paragraph (11) to provide for alternate methods of verification of the Privilege Tax Returns submitted to the City; and declaring an emergency.

B. AGREEMENT: FACILITIES DEVELOPMENT AGREEMENT WITH PIMA COUNTY JUNIOR SOCCER LEAGUE FOR LIGHTING AT GOLF LINKS SPORTS COMPLEX

1. Report from City Manager SEPT27-04-521 W4

2. Resolution No. 19945 relating to parks and recreation; approving and authorizing the Facilities Development Agreement between the City of Tucson and Pima County Junior Soccer League for the development and construction of field lighting at Golf Links Sports Complex; and declaring an emergency.

C. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR A TRAFFIC SIGNAL ON SILVERBELL ROAD AT SWEETWATER DRIVE

1. Report from City Manager SEPT27-04-522 W1

2. Resolution No. 19944 relating to traffic; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for a traffic signal on Silverbell Road at Sweetwater Drive; and declaring an emergency.

D. ASSURANCE AGREEMENT: (S03-021) CIVANO II SUBDIVISION, LOTS 1 TO 192, BLOCKS 1 AND 2, COMMON AREAS "A", "B", "C", AND "D"

1. Report from City Manager SEPT27-04-523 W4

2. Resolution No. 19946 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S03-021 of a final plat for the Civano II Subdivision, Lots 1 to 192, Blocks 1 & 2 and Common Areas "A" – "D"; and declaring an emergency.

E. FINAL PLAT: (S03-021) CIVANO II SUBDIVISION, LOTS 1 TO 192, BLOCKS 1 AND 2, COMMON AREAS "A", "B", "C" AND "D"

1. Report from City Manager SEPT27-04-526 W4

2. The City Manager recommends that, after the approval of the assurance agreement, the Mayor and council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

F. FINAL PLAT: (S03-008) KLETECHKA CONDOMINIUMS SUBDIVISION UNITS 1 TO 8 AND COMMON AREAS "A" AND "B" (CONTINUED FROM THE MEETING OF SEPTEMBER 7, 2004)

1. Report from City Manager SEPT2704-514 W3

2. The City Manager recommends that the Mayor and council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

G. REAL PROPERTY: SALE OF SURPLUS PROPERTY NEAR 17TH STREET AND SOUTH CHERRYBELL AVENUE TO PGR CONSTRUCTION, INC.

1. Report from City Manager SEPT27-04-527 W5

2. Ordinance No. 10045 relating to real property; vacating and declaring certain portions of city-owned real property near 17th Street and Cherrybell Avenue to be surplus and authorizing the sale of said property to PGR Construction, Inc.; and declaring an emergency.

H. REAL PROPERTY: AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PROPERTY FORMERLY OWNED BY THE CITY OF TUCSON

1. Report from City Manager SEPT27-04-513 W1

2. Ordinance No. 10046 relating to the Tucson Airport Authority; authorizing the execution of an amendment to the Declaration of Covenants, Conditions, and Restrictions on property owned by the University of Arizona, located at Nogales Highway and Valencia Road, and 6th Avenue and Valencia Road; and declaring an emergency.

I. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH O.T. ADOBE L. L. C. (CONTINUED FROM MEETING OF SEPTEMBER 13, 2004)

1. Report from City Manager SEPT2704-529 OUTSIDE CITY

2. Resolution No. 19923 relating to annexations; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and O. T. Adobe L. L. C.; and declaring an emergency.

Item I was continued at the request of staff.

J. PRE-ANNEXATION AND DEVELOPMENT AGREEMENTS: WITH THE NEW TUCSON UNIT 2 HOMEOWNERS ASSOCIATION, INC., NEW TUCSON UNIT 5 HOMEOWNERS ASSOCIATION, INC., AND NEW TUCSON UNIT 8 HOMEOWNERS ASSOCIATION, INC. (CONTINUED FROM MEETING OF SEPTEMBER 13, 2004)

1. Report from City Manager SEPT27-04-530 OUTSIDE CITY

2. Resolution No. 19926 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 2 Homeowners Association, Inc.; and declaring an emergency.

3. Resolution No. 19927 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 5 Homeowners Association, Inc.; and declaring an emergency.

4. Resolution No. 19928 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 8 Homeowners Association, Inc.; and declaring an emergency.

Item J was continued at the request of staff.

K. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH FIDELITY NATIONAL TITLE AGENCY, INC. (CONTINUED FROM MEETING OF SEPTEMBER 13, 2004)

1. Report from City Manager SEPT27-04-531 OUTSIDE CITY

2. Resolution No. 19929 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and Fidelity National Title Agency, Inc., and Arizona Corporation, as Trustee under Trust Nos. 60,070 and 60,071 (Sycamore Canyon); and declaring an emergency.

Item K was continued at the request of staff.

L. TUCSON CODE: TECHNICAL AMENDMENTS TO ORDINANCE 10041 (THE PEDDLERS ORDINANCE) TO REFLECT AMENDMENTS APPROVED BY THE MAYOR AND COUNCIL ON SEPTEMBER 20, 2004

1. Report from City Manager SEPT27-04-532 CITY-WIDE

2. Ordinance No. 10054 relating to business license and occupational license tax; amending Section 1 of Ordinance No. 10041 to prohibit Peddler Operations in City right of way except in the downtown and Fourth Avenue business districts; and declaring an emergency.

Kathleen S. Detrick, City Clerk, announced that Consent Agenda Items I, J, and K were pre-annexation and development agreements, which had been continued from prior meetings. Those items would not be discussed and the record would note that when the motion was made to approve Consent Agenda Items A through H and Item L, they would be incorporating the motions approved during Item 1 on the Study Session.

It was moved by Council Member Scott, duly seconded, to pass and adopt Consent Agenda Items A through H, and Item L, with the information the City Clerk noted regarding Items I, J, and K, which was to incorporate the motions approved during Study Session.

Michael Rankin, City Attorney, confirmed Council Member Ibarra's statement that on Item L, they were prohibiting peddlers on the right of way, except for downtown and Fourth Avenue.

Mayor Walkup asked if there was any further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye:	Council Members Ibarra, West, Dunbar Scott, and Leal; Vice Mayor Ronstadt and Mayor Walkup
Nay:	None

Consent Agenda Items A through L, with the exception of Items I, J and K, were declared passed and adopted by a roll call vote of 7 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for any items scheduled for a public hearing. Speakers would be limited to three-minute presentations. He said there were a number of cards that were carried over from last week.

a. Michael Toney spoke on pre-annexation, City-County relations and suggested Council Member Leal host a cable show on fusion jazz.

b. Jim Lockier spoke about concerns with improper juvenile activities and offered ideas and assistance for youth intervention.

c. Patty Kuvik thanked the Mayor and Council for their earlier decision to delay any decision on pre-annexation agreements.

8. PUBLIC HEARING: APPLICATION BY TUCSON GREYHOUND PARK FOR OFF-TRACK BETTING SITES

Mayor Walkup announced City Manager's communication number 517, dated September 27, 2004, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a request by Tucson Greyhound Park for two proposed off-track betting sites. He said the public hearing was scheduled to last for no more than one hour. Speakers would be limited to five-minute presentations.

John Munger, representing Touchdowns Bar and Grill, Famous Sams and Tucson Greyhound Park, said the application was actually submitted by the three parties since they worked in conjunction with each other. The application was not really Tucson Greyhound Park, it was an application by Touchdowns and Famous Sams to be authorized as off-track betting sites. They had made requests to the State Racing Department to be approved as racing locations for both horse and dog racing. In Arizona simulcasts and teletracking of both dog and horse races were shown at off-track betting sites. One site, Touchdowns, was going to replace the Maverick, which was closed down. After the issue had been vetted by the Police and Zoning Departments, they were asking the Council to tell the State Racing Department that there were no problems with the two sites being approved as off-track betting sites. The State Racing Department would give the ultimate approval. The organizations were asking the Council for their approval as the local jurisdiction.

For various legal reasons Mr. Munger requested that the resolution show "for horse and dog racing" and eliminate the reference "for Tucson Greyhound Park." The applications were for the two sites to be approved as locations for horse and dog racing.

Mayor Walkup asked if there was anyone else who wished to address the Council on this item.

Ann Sprigg, a resident of Starr Pass, asked the Council what the City and people of Tucson might be getting out of Mr. Munger's request. She asked if the City would receive some tax base for it and asked what his motive was. She wanted to know why they should do this. Why should they have people spending their money on betting in the City. She asked the Council to clarify that for her.

Mayor Walkup thanked her for her input and replied they would have someone from the City staff sit down with her to explain it.

Council Member Leal asked if the answer to her question could be given so that everyone in attendance could hear.

Mayor Walkup called on Mr. Munger and asked if he could respond to Ms. Sprigg.

Mr. Munger commented they paid sales taxes on the betting that goes on and they also employed people, about three jobs at every site. They paid their share of City sales taxes.

Mayor Walkup asked how long they had been in business.

Mr. Munger responded they have had off-track betting sites for roughly ten years. He went on to state that the Police Department could confirm they had never had any problems at any of their sites. He wanted to make it clear to everyone in the audience that before the application came before the Council, it was vetted by the Zoning Department, the Police Department and all the various departments with the City for any problems either at the location or with this type of transaction.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the City Clerk to read Resolution 19942 and Resolution 19943 by number and title only.

Resolution No. 19942 relating to off-track betting facilities; approving Touchdowns, 6366 E. Broadway, Tucson, Arizona, as an off-track betting site for the Tucson Greyhound Racetrack; and declaring an emergency.

Resolution No. 19943 relating to off-track betting facilities, approving Famous Sam's, 2320 N. Silverbell Road, Tucson, Arizona, as an off-track betting site for the Tucson Greyhound Racetrack and declaring an emergency.

Council Member Dunbar commented it did not matter to her how long the business had been in operation, she was morally opposed to greyhound racing and would be voting no.

Council Member Ibarra asked Mr. Munger if he was okay with the Resolutions before the Council.

Mr. Munger responded he had just spoken with the City Attorney who confirmed there would be language put in the resolution that said "for horse and dog racing."

Mr. Rankin said the language addressing the concern raised by the applicant would be in Section 4 of the resolution, so it would now read "Pursuant to A.R.S. §5-1-11(a), the application for an off-track betting site for horse and dog wagering located at Touchdowns Bar and Grill and Famous Sams," was approved.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Resolution 19942, with the amendments as stated by the City Attorney.

Mayor Walkup asked if there was any further discussion. Hearing none, he called for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, Scott, and Leal; Vice Mayor Ronstadt and Mayor Walkup

Nay: Council Members West and Dunbar

Resolution 19942 was declared passed and adopted by a roll call vote of 5 to 2, with the amendments as stated by the City Attorney.

Council Member West stated for philosophical and religious reasons she voted no.

For the purpose of the emergency clause and that purpose only, Mayor Walkup called for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal; Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Resolution 19942 was declared passed and adopted by a roll call vote of 7 to 0, with the emergency clause.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Resolution 19943, with the amendment as stated by the City Attorney.

Mayor Walkup asked if there were any further discussions. Hearing none, he asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, Scott, and Leal; Vice Mayor Ronstadt and Mayor Walkup

Nay: Council Members West and Dunbar

Resolution 19943 was declared passed and adopted by a roll call vote of 5 to 2 with the amendments as stated by the City Attorney.

For the purpose of the emergency clause and that purpose only, Mayor Walkup called for a roll call vote.

Upon roll call, the results were:

Aye:	Council Members Ibarra, West, Dunbar, Scott, and Leal; Vice Mayor Ronstadt; and Mayor Walkup
Nay:	None

Resolution 19943 was declared passed and adopted by a roll call vote of 7 to 0, with the emergency clause.

9. PUBLIC HEARING: ZONING (C9-98-25) STARR PASS BOULEVARD SR TO C-1 REQUEST FOR TIME EXTENSION

Mayor Walkup announced City Manager's communication number 525, dated September 27, 2004, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for a five year time extension for property located south of Starr Pass Boulevard and west of Players Club Road. The original five-year authorization would expire November 8, 2004.

Mayor Walkup asked if the applicant or a representative was present and if they had any brief comments before beginning the public hearing. The applicant was present, but had no comment

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations. He asked if anyone wanted to address the Mayor and Council on this issue.

Bruce Wood, representing the Starr Pass Neighborhood Association, including Joy Greenway, President, requested a continuance of the hearing on the matter. The reason for the request was that they did not receive the normal three-week notice, but just last Friday had received the official notice from the City.

Mayor Walkup asked if anyone else wished to address the Council on the issue. There was no one.

Council Member Ibarra asked that the public hearing on C9-98-25 Starr Pass Boulevard SR to C-1, request for time extension, be continued for one week. He added it would not be continued to change anything. He wanted to continue the item because the neighbors were requesting to at least have time to talk about it amongst themselves, understanding it was only a time extension and everything was the same as when it was discussed the last time.

Kathleen S. Detrick, City Clerk, said from a legal standpoint, she believed the item could be continued for one week as long as she announced the date, time and location of the continued public hearing.

It was moved by Council Member Ibarra, duly seconded, to continue the public hearing for one week.

The motion to continue the public hearing for one week on Zoning (C9-98-25) Starr Pass Boulevard SR to C-1, Request for Time Extension, carried by a voice vote of 7 to 0.

Kathleen S. Detrick, City Clerk, announced for the record the public hearing for Item 9 would be continued for one week, until October 4, 2004. The public hearing would be continued at that time, at or after 5:30 p.m., and would be held at City Hall, 255 West Alameda, First Floor of City Hall, Tucson, Arizona.

10. URBAN PLANNING AND DESIGN: COST OF SERVICE – PROPOSED DEVELOPMENT IMPACT FEES FOR ROADS AND PARKS

Mayor Walkup announced City Manager's communication number 528, dated September 27, 2004, would be received into and made a part of the record. He also announced staff would be making a brief presentation.

James Keene, City Manager, asked Albert Elias, Urban Planning and Design Director, to brief Mayor and Council on where they were from their last discussion and to clarify what was presented before the Council as it related to recommendations and options included in the packet. The Council could then have their discussion and staff would be present to answer any questions.

Mr. Elias reminded the Council that from the public hearing and from the previous Study Session there were a number of comments about the Benefits District. One of the suggestions was to incorporate the West District north of the Central Core District into the Central Core. That was the one change staff felt had the most technical justification. They were presenting that option for the Council if they cared to utilize it. He noted that in the Council's packet of materials, there were both the previous Benefit District Map as well as the new one, showing the option with the West District north of the Central Core added into the Central Core. There were other changes discussed and he said staff felt this was the one with the strongest technical justification, which was why they included it.

Mr. Elias continued they did not recommend the adoption of the Parks fee. However, there was an optional ordinance included in the Council's packet, which addressed a regional park impact fee with the roads' fee. That was based on the work that Duncan and Associates did and the fee was eighty cents per square foot; and it would be for all residential units. The phasing period was the same as was recommended for the roads. If the Mayor and Council chose to adopt the parks fee, it would be recommended

that staff continue to pursue resolution of the neighborhood parks issues and return to Council with amendments to the Impact Fee Ordinance to address neighborhood parks. He said those were the two major changes included.

Mr. Keene stated while there were a lot of choices of methodology, for an impact fee ordinance, the reality of having a methodology was pretty much prescribed and established in a lot of case law around the country. Unlike a lot of other decisions the Council makes, for this decision they might not have a lot of latitude for compromise. It was important to identify the needs in infrastructure, specifically transportation, which would be required because of new development, and then try to assign a fair cost to the new development so infrastructure could be provided. These numbers were not just plucked out of the air. There actually had to be a rational nexus between the fee and what the City was trying to achieve. He told the Council it was important to keep that in mind.

Mr. Keene continued that when they looked at the Benefit District area, a lot of the concern dealt with making some changes to the different Benefit Districts, and in some ways expanding the Central Core. As Mr. Elias mentioned, they felt the suggestion on the northwest area made technical sense. Some of the other things talked about were more difficult, as far as moving things in and out of the Core. The fact was they always had lurking down the road the potential that somebody might challenge the entire ordinance if it did not meet the legal nexus test.

Mr. Keene told the Council that the maximum flexibility in making some adjustments to the Core in the staff's view would be to revisit the question of whether to have the fee at all in the Core. He restated what was said last week that if there was not a fee in the Core, then how the Core area would be adjusted would not be bound by any of the issues. The City would not collect any money, but they could not spend any money in the Core. He asked the Council to keep that in mind.

Lastly, Mr. Keene stated that anything they did that would change the Core or any reductions they might make in the fee would bring in less money than projected. If they looked at the nexus they spoke about, the whole idea was to say they anticipated a certain level of infrastructure needed for roadways because of the anticipated development. Anything they did that reduced that would be saying they did not want to have one hundred percent cost recovery under that methodology. They were going to collect less money. He told the Council they were there to answer questions.

Council Member West commented that as a Charter City, they had the right to set a fee and Pima County could come up to the City's fee if they wished.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10053, Option A, roads only, and refer Parks Impact Fee back to staff for further study and to work with community stakeholders on a comprehensive parks impact fee that considered all park facilities, including neighborhoods, community, regional and metro parks. She also asked that the ordinance come back to the Council for review somewhere between nine to twelve months.

Mr. Elias and Council Member West confirmed Vice Mayor Ronstadt's query that the motion included the new map.

Council Member West added they might have some amendments to it.

Council Member West confirmed the City Clerk's statement that it was Attachment C to the Mayor and Council communication, which was the alternate ordinance language, 23A-84, expenditure of funds, and it was the section which had the revised map in question.

Council Member Leal said the Council worked a long time to decide that impact fees were a good idea, and had spent a fair amount of time figuring out how to compose impact fees. Council Member Leal felt part of the challenge and difficulty was when there was something that was manifold like impact fees, and they were under the pressure of time and competing interest, it was easy for some parts by default to get more attention in their development than other parts. The document and recommendation could then end up being skewed, not intentionally, it was just the nature of doing that kind of work. Because this was such a significant departure and new door that they would go through, Council Member Leal thought it was important that the ordinance be as good as it could be. The community had significant, legitimate expectations that it be as good as it could be, and he also thought how this was done would either facilitate or jeopardize the odds of whether or not a half cent sales tax and a Regional Transportation Authority were passed.

Council Member Leal concluded it was for those reasons he thought about bringing what he called a little bit more balance to the composition of the proposal on the table. Some of the things that seemed out of balance to him were the relationship between commercial and residential, residential being pitched at two-fifteen. There would be six months with nothing, six months at fifty percent, while commercial was three years with nothing and seven years at fifty percent. Council Member Leal said he thought the argument staff offered was legitimate and right, that they all knew commercial followed residential. Commercial had different times of complexities that made it different in how it was carried forward and brought to fruition. He thought the timetable was simply too stretched out and created unfairness. It would put more burden on residential by default to make money that commercial would not be paying. Council Member Leal said his sense would be the carry forward for commercial should be a year and a half at no fees, a year and a half at fifty percent and after that it would be at full cost. That would allow the City to easily bring the footage price for residential from two-fifteen down to two.

Another issue Council Member Leal thought a little more balance should be applied to was if a home was built greater than twenty-two hundred feet, nothing would be paid for the footage beyond twenty-two hundred feet. His concern with that was not simply about placating the public, but seeing that if a road impact fee was about dealing with impacts on roads and traffic burdens, clearly three to five bedroom homes that were twenty-two hundred feet to four thousand feet, were owned by residents with one to four

cars and were creating more of the problem. Council Member Leal thought there should not be a cap at all on homes above twenty-two hundred feet. Council Member Leal commented the other end of the spectrum was affordable housing. The Council has talked about affordable housing, but has done nothing about it. He thought there was a lack of balance there. They were making it light for the residents on the more affluent end of the spectrum and putting a disproportionate burden on residents on the lower end of the spectrum. While at the same time, he thought there should be no cap above twenty-two hundred feet, he thought the City should embrace the low-income housing waiver the County had with affordable housing.

Council Member Leal said Council had discussed, researched and analyzed for some time the shortcomings of Tucson's parks, not just qualitatively, but the lack of acres per thousand people and so forth. Many people feared that if the City moved forward without parks being built, they would set themselves up to pay more for less. Something would be built on the land that might have otherwise been that regional park; and if it were not, the City would have to pay more if they could find it later. There was a way in which it just did not make sense from a management sense to not build parks on the front end of this, before the fact instead of after the fact. He understood and agreed with people when they argued that neighborhood parks on the other hand were simply more complicated to figure out. He thought there was real truth in that. They should not think the Council was shirking their responsibility when they said that was why they did not do neighborhood parks now. However, if they did not do the larger regional park concepts now, he thought the Council would be shirking their responsibility. He saw the need for the Council to do that now. He said he would outline it in his substitute motion.

Substitute motion made by Council Member Leal, duly seconded, to pass and adopt an impact fee based on two dollars a square foot for residential; no cap above twenty-two hundred feet; that they implement the County's low income waiver for housing; that commercial have a one and a half year 'no fee' period, but a one and a half year period at fifty percent, and after that it would be at full cost; that Parks be done now; that staff take the six month period where there would be no fees collected for residential to see if there was anything that needed to be figured out on that parks policy (and act on it during that period) and the alternate map be modified so that the southeast benefit area, the northern boundary, be moved up to Golf Links Road.

Mayor Walkup asked if there was any further discussion.

Michael Rankin, City Attorney, responded to Council Member Ibarra's question regarding Dan Cavanagh's concern. He stated the change would be reflecting the issuance of a Certificate of Occupancy for the non-residential development. Under the ordinance the impact fees were imposed for residential at the time of the building permit. For the non-residential it was at the time of the issuance of the Certificate of Occupancy. To reflect the actual practice of the fact that the Certificate of Occupancy was issued to the occupant, not for example to the contractor, the clarifying language would change Section 23A-86, § 2, so that the first sentence would read "Non-Residential Development - Impact fees on non-residential development shall be assessed and paid prior to and as a

condition of the issuance of a temporary or permanent Certificate of Occupancy 'to an owner or occupant,' (he noted that was the new language – those five words) for all or a portion of the structure commencing January 15, 2008." Mr. Rankin said that the language change was really just reflecting how the practice actually worked with respects to the issuance of a Certificate of Occupancy.

Council Member Ibarra commented he knew it was not a public hearing, but just wanted to make sure the change was reflected.

Mr. Cavanagh, Southern Arizona Home Builder's Association, confirmed Council Member Ibarra's question that he supported the change.

Council Member Leal confirmed they could attach Mr. Rankin's comments to the motion.

Council Member Leal responded to Council Member West's question that they were talking about regional parks, not all parks.

Council Member West referred to the public housing waiver and said Mr. Rankin gave the Council a ruling on that and thought they would have to go back and find another way to fund that waiver.

Mr. Rankin said the issue was discussed a bit last time about whether building an exemption or a waiver for affordable housing presented legal concerns or problems. He indicated it did. The reason it did was the exemption was not related to the rational nexus in terms of the costs created by the development or the methodology for calculating the fee. As an example, he spoke about the cap proposed in one of the versions of ordinance and not in the substitute motion. The cap was related to the methodology used in the study, which contained data showing that costs of the impact increased up to a certain point, and they did not have data supporting increased costs above twenty-two hundred square feet. He said that was the example of where the methodology supported the language of the ordinance.

Mr. Rankin continued they did not have anything in their study that would give justification for an exemption for the affordable housing fee, or housing below a certain square footage. He believed it would be difficult to defend if a legal challenge were mounted against an affordable housing exemption. He knew that Pima County and some other jurisdictions had that type of exemption. He also found one case where a jurisdiction's court upheld an exemption for affordable housing. However, the reason for the court decision was the enabling statute in that state, Rhode Island, specifically created that exemption and passed on to the municipality the ability to build that into their ordinance. Mr. Rankin said Arizona's enabling ordinance did not have that type of provision. Instead, it discussed the types of things that they could give credits or offsets for. They were all related to the nature of the impact, the cost or the contribution of public funding. For example, he noted the public funding credits built into the proposed

ordinances. However, there was no such credit or offset contemplated by the State's statute for affordable housing.

Council Member West said she liked many of the points brought up, but asked if the Mayor and Council were willing to vote on the waiver of affordable housing separately. She did not want to do something where they might have a legal challenge. She preferred to find a way to fund it, perhaps through Community Development Block Grant funds. She was aware of the need and did not disagree with Council Member Leal.

Council Member Leal responded he was inclined to not only put the issue of affordable housing in the motion because it was needed, but because he believed the mechanism that County had been using for some time was legal. He thought clearly there were other ways to solve the problem if need be and said the County had used it for some time and had never been sued.

Mr. Rankin responded to Council Member Leal that he was not aware of any challenge.

Council Member Leal said that being the case, and since it was not in New Jersey or Oregon, but in Pima County, he would be comfortable adopting it. If the City were challenged at some point in the future, that would be the time to reconsider. He thought it was not a novelty, it was a tried and true thing. He asked if the Council would be comfortable moving forward in trying it that way.

Council Member West replied that her motion asked that the Council look at it again in nine to twelve months to see how it was working, including the Benefit areas as they were drawn.

Council Member Leal responded he would remove the affordable housing part from the motion and schedule it for a Study Session, so they could address particular attention to that to see what the best way would be for the Council to move forward on that aspect of it.

Council Member Ibarra said instead of removing it from the motion or keeping it full-fledged, why not work out something in the middle. He suggested keeping affordable housing in the motion, but directing the City Manager, in conjunction with the City Attorney, to come back with some level of plan like Pima County's that would work for the City of Tucson. That way, the City could get something back. He thought everyone on the Council wanted to address the issue, but they wanted to make sure they were doing it in the most appropriate way.

Council Member Leal agreed that was a good suggestion and said he would gladly accept that.

Council Member Ibarra asked the City Manager if he was in agreement with the suggestion, as it would give him an opportunity to go back and put a plan together.

Mr. Keene replied they might be able to come up with some other options, which would accomplish the same goal. He echoed the City Attorney's point that they needed to be careful on not having a cap. The Duncan Study identified what they thought was a defensible maximum cap. In essence, by changing it to two dollars, he argued the cap went up a bit because of what the yield was, twenty-three to twenty-four hundred dollars. If the Council still did not feel it was enough, his advice was some cap would be better than no cap, even if the Council chose three thousand square feet. Mr. Keene felt it would put the City in a better position. Three thousand square feet would take the City to a six thousand dollar piece. He thought the fact that the Council chose to set a cap would be a good signal.

Council Member Leal accepted Mr. Keene's suggestion to use three thousand feet.

Mr. Keene made one other clarification, which was to express the idea of two dollars per square foot, as a percentage of the full amount. That meant they would set the per square foot price at ninety-three percent of the study's recommendation. They wanted to justify the City's methodology. It would be equivalent to two dollars, but they would basically be saying they were going to collect ninety-three percent of the cost.

Council Member Dunbar stated there were about four or five items she was in disagreement on. The way the motion was made, she could not support it. There was a stakeholders group and they met for almost a year and worked out the commercial. She felt the Council was forgetting that they want to encourage commercial because the City lives off of sales tax. They have been hearing from the City Manager for the last three years that the fallacy with the City was that they did not get property taxes, the City lived off sales taxes. The Council was trying to change the very vehicle that the City lived on, after having a consensus of commercial developers, the stakeholders, and City staff, who came up with the plan. As long as that was being changed, she could not support it.

Council Member Dunbar's other concern was the two dollar fee. She said there was a lot of talk about pre-annexation agreements and annexations. She asked the Council to remember the County's fee was thirty-five hundred for homes and parks was fifteen hundred. The way the Council was going right now, they were charging more than the County was charging. Council Member Dunbar believed the City had to be the same as the County, exactly what Council Member Scott had been saying for the last two to three years, or the City needed to be at the one dollar seventy-five cents.

Council Member Dunbar said the City was also throwing in parks. When they had their public hearing, they had the State Land Department come forward. At that time, many people came forward and said they were not ready for parks yet, almost ready, but not quite there. Now, without any study and ignoring the people that had been doing this for the last nine months, the Council was sitting there like they knew more about the subject than those who were in the business. The Council was ignoring those people who did it every solitary day of their lives and was now telling them it had to be two dollars, and they needed to throw in parks. Council Member Dunbar felt they were

premature in parks. In conversations and in discussions, she thought it was perfectly acceptable to tell staff that as soon as they finished with this meeting, they could come back and have a parks fee by January 2005. She did not think it was appropriate to move forward on parks at the meeting. Another area Council Member Dunbar had a problem with was that in the original consensus draft from the stakeholders and City staff, there was a two percent cap on administration fees. She noted that Council Member Leal did not include that. She felt they definitely needed that two percent cap on administrative fees, which was not being discussed.

Council Member Leal said if it was not in, it should be put back into the ordinance.

Council Member Dunbar said there were several items being discussed. She was in agreement with the cap at three thousand feet and the low income. The commercial she could not support the way it was right now, removing the work that had been done on the commercial..

Council Member West responded to Council Member Dunbar that the administrative cap was still in the ordinance and it was on page seven.

Mr. Keene thought it was expressed as a fifty dollar fee and that fee could not be changed unless the Council came back and amended the ordinance. Therefore they could not charge more than fifty dollars.

Mr. Rankin commented that in addition to that, it was commencing on July 15, 2005. The fee would be amended to reflect actual administrative costs. After there had been a period in time to get an idea of what the costs would be, it would be adjusted to the actual costs.

Mr. Rankin responded to Council Member Scott that it was specific in the ordinance that the amendment would be adopted as a development standard with the approval of the Mayor and Council.

Mr. Rankin affirmed Council Member Scott statement that any change would have to come back to the Council

Council Member Dunbar said the only issue she had then was the changing of the commercial and the actual fee at two dollars. The other thing they discussed was what the fee would be in the Core. The Council spoke about no fee in the Core and she was not sure where they were now.

Mr. Keene replied that as the ordinance stood, they would have the seventy-seven percent fee in the Core. The examples the Council were shown demonstrated that when the credit offsets for extractions are received, in many cases they would have a zero fee, because they would see a lot of redevelopment uses in the Core.

Council Member Dunbar said it would then have to be one dollar and seventy-five cents or the same as the County with no cap. She was having a real issue with doing the commercial the way they were doing it and the parks.

Council Member West had one more question about the parks. She thought the motion made dealt only with regional parks, and that the Council was going to go back and deal with those other issues.

Mr. Keene said he understood that Council Member Leal's motion only dealt with the regional parks, also the fact that they had the delayed period of six months before any fees would start to be collected (really nine months from now). That would allow the City adequate time to work through, in a public process, how to deal with the neighborhood park issue before any fees were collected.

Council Member Dunbar wanted clarification and asked if they were talking about eighty cents for the regional and would come back for the neighborhood parks. She asked what a parks fee would be for a twenty-two hundred square foot home.

Mr. Keene responded the park fee for a twenty-two hundred square foot home would be seventeen hundred and sixty dollars.

Council Member Dunbar confirmed it would just be seventeen hundred and sixty dollars just for the regional and said they had not even started neighborhoods. She pointed out the County was fifteen hundred.

Mr. Keene stated the County had a lot more open space.

Council Member West asked if this item could be brought back to the Council if they found out that something was not working. She thought it would be very important that the Council have a workshop on implementation so that they knew what they were doing on day one and that everyone in the community had a clear picture of what they were doing. During that time, she thought some of the issues would come up and she would want those issues brought back to the Council for refinement.

Council Member Dunbar commented if they were going to have a workshop on implementation, it should have been done before an ordinance was adopted.

Mr. Keene wanted to follow up on Council Member West's point. While he had a different recommendation, as it related to the motion on commercial, there was a year and a half before any fee would have to be paid. If Council Member West requested the item come back in nine to twelve months, it would allow staff to do some very intensive monitoring of the effect of this on market conditions on the commercial area and be able to bring back any adjustments that were necessary, or be able to bring the Council the data so if they wanted to make some adjustments before any fees went into effect, they could. He felt Council Member West's point was a good one.

In response to Mayor Walkup, Council Member Leal replied that he was comfortable with the discussions.

Mayor Walkup asked for a recap of the substitute motion.

Ms. Detrick said she would defer this to the City Manager and the City Attorney, because she wanted to make sure she had the right section numbers identified for the amendment.

Mr. Keene said it was his understanding that on the commercial, the motion would be that there would be no fee for a year and a half, then there would be a fifty percent fee for the next year and a half. After that three-year period, the commercial fee would go to one hundred percent. The residential fee would be set at ninety-three percent of the study's cost recovery methodology, which would be equivalent to the two dollar fee. That would be capped at three thousand square feet. The motion also included a recommendation at eighty cents per square foot to fund the regional parks aspect of the parks plan, with the understanding that roughly during the nine months between now and before that phase in fee began, staff would have chance to meet with stakeholders and propose recommendations on the neighborhood parks issue. Also, in the near term, staff would investigate various low income options, including waivers similar to Pima County or any other affordable housing strategies that would affect that same outcome. Also, that the Southeast Benefit area map be modified to extend the northern boundary of the southeast area to Golf Links, and the other aspects of the ordinance as included in the submitted draft.

Mr. Rankin added the sections of the ordinance that correlated to those elements of the motion. He said with respect to the phase-in period for the non-residential, as included in the motion, would be reflected in changes to §23A-86(2). With respect to the ninety-three percent of the fee, the two dollar per square foot for the residential fee, would be reflected in a change to §23A-81(1) in the line designated residential. With respect to the cap, the change would be reflected in §23A-81(9). With respect to changes in the map, the map itself would be changed to reflect the change in the boundary, as well as the language in §23A-84(4). Finally, another change in §23A-86(2) to add the language he read earlier, regarding the issuance of the Certificate of Occupancy to the owner or occupant.

In response to Council Member Scott's request that the last comment be clarified, Mr. Rankin responded that was the language relating to the concerns from the contractor's association. There was a concern that contractors might be affected by the liability of paying the fee, because it was connected to the issuance of the Certificate of Occupancy, and if they had a contract they might be beholden to it, through no fault of their own. So the language that the was injected, that Mr. Cavanagh agreed to, made it clear that it was the responsibility of the owner or occupant. That removed the burden of the potential contractors for being liable for that fee and they were in agreement.

Council Member Dunbar commented they would be putting it on the owner, but they all knew in a commercial building things could be held up for four or five years. Now with the change, even though the contract was already in affect, they would still be putting the new impact fees on the owner. Council Member Dunbar said what Mr. Cavanagh was talking about was a motion exempting any existing contracts. She did now know how that would be done, and said she did not feel his question had been answered with what was being discussed.

Mr. Keene believed they had answered Mr. Cavanagh's question. The idea was that the owner was the one responsible for that schedule. Their concern was that the contractor had no control over that schedule and might be affected by it. Mr. Keene said they clarified the fact that the owner would be the one responsible.

Council Member Ibarra supported Council Member Leal's substitute motion. He thought for a long time there had been rhetoric in terms of impact fees. Contrary to popular demand, he knew they would pass something at the Mayor and Council meeting. It had really gotten to the point now where they had to move beyond the words and actually step into the action. The action taken was a real action. He said it was not a perfect action; it was not one hundred percent complete for anyone. It was a compromise they had been trying to work out with everybody and making sure that everybody would get something, but at the same time everybody did not get everything. It was a compromise in a sense. The reason he was going to support it was because they were moving beyond the rhetoric. The other reason he was going to support it was they knew it would have checks and balances. He said the Council would come back, between nine and twelve months, to look at the item, and make adjustments to make it a better item. Because of that, Council Member Ibarra thought it was a good start. They would be making a commitment they were serious about, and they were going to take action, but compromise to make sure that action was taken at the Mayor and Council meeting. He commended Council Member Leal for doing a good job. He appreciated it and said he would support his motion. He thought it was a good step forward and they were finally taking action on an issue that was long overdue.

Mr. Rankin asked for clarification on reducing the ninety-three percent, the two dollars per square foot. He asked if Council Member Leal's motion included reducing it, since in the Core it was seventy-seven percent of what was being charged elsewhere.

Council Member Leal replied it was his intention to reduce it proportionately as well.

Mr. Rankin said in that event, they would also make the change, in the same section §23A-81(1) under the residential line "roads would be reflected as two dollars and in the Central it would be one dollar fifty-four cents, which would be seventy-seven percent of the two dollars, ninety-three percent of the two-fifteen.

Ms. Detrick asked for further clarification. Council Member Leal acknowledged the motion was to use Option B, which was presented, relating to parks and roads.

Additionally, the change in the map they referred to, the change in the Benefit District Map was Attachment C, Alternate Benefit District Map and Alternate Ordinance language to the Mayor and Council Communication, with the additional amendment regarding the Southeast Benefit District and also the East Benefit District.

The City Clerk read Ordinance 10053, by number and title only.

Option B – Ordinance No. 10053 relating to development impact fees for roads and parks; amending Tucson Code, Chapter 23A, Development Compliance Code, renumbering Article III, Definitions, as Article IV, adopting a new Article III, Impact Fees Division 1, Applicability and Intent; Division 2, Fee Calculation; Division 3 General Provisions; and establishing an effective date.

Ms. Detrick added the vote was on the substitute motion by Council Member Leal and seconded by Council Member Ibarra.

Upon roll call, the results were:

Aye:	Council Members Ibarra, West, Scott, and Leal; Vice Mayor Ronstadt and Mayor Walkup
Nay:	Council Member Dunbar

Council Member Dunbar asked for permission to explain her vote. She commented that after working on something for nine months, she would expect that it be perfect. They were not moving beyond rhetoric; it was rhetoric to say that it was not perfect. She said it was rhetoric to say they were going to keep looking at the item. They had a group of stakeholders work on it for the last nine months. They came up with a consensus and everyone agreed on it, but City staff. Council Member Dunbar referred to Duncan and Associates and asked how much the City spent on that. She asked if it was closer to two hundred fifty thousand or five hundred thousand.

James Keene, City Manager, replied it was closer to the lower number, but he would find out the exact amount.

Council Member Dunbar responded that for a quarter of a million dollars, she expected perfect and would be voting no.

Mayor Walkup explained his vote. He acknowledged stakeholders had been working a long time. As he reviewed the issue, he saw some pain on almost every single stakeholder face in the audience. That was what the City Council was all about, getting all that information, digesting it, and making a decision. He complimented staff and the stakeholders and said it was a tough thing they put together. For years, the voters had been asking when the City was going to do something to have growth pay for itself. He thought what they would vote for and pass at the meeting was a real movement forward for the community. Again, he complimented the stakeholders who worked on the

ordinance. He acknowledged they did not get everything they asked for, but said there was a lot in the ordinance that would make the community a competitive community and start paying for streets and parks. He said that was why he voted yes.

Ordinance 10053 (Option B), with noted amendments, was declared passed and adopted by a roll call vote of 6 to 1.

11. ZONING: (C15-88-04) VISTA DEL NORTE ANNEXATION DISTRICT – LIMBERLOST R-2 ZONING, CHANGE OF CONDITIONS AND ORDINANCE ADOPTION

Mayor Walkup announced City Manager's Communication number 524, dated September 27, 2004 would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10044 by number and title only.

Ordinance No. 10044 relating to zoning: amending Ordinance 7286 to amend condition No. 3 of the original City zoning in the area located on the south side of Limberlost Drive approximately 1,000 feet east of 1st Avenue in Case C15-88-04, Vista Del Norte Annexation District-Limberlost; and declaring an emergency.

Council Member Dunbar said she received a letter from Bonnie Poulos, Campus Farm Neighborhood, and asked if she or the developer wanted to come forward to address the Council.

Stud Urman, The Planning Center, was there on behalf of R.O. Development of Tucson. He stated they were in complete agreement with the amended conditions as recommended by staff.

Council Member Dunbar wanted to make sure that included "the building heights would be limited to a maximum of twenty-five feet measured from the finished grade." She also read the additional Condition 14, which stated "the developer shall work with City Transportation staff to explore the feasibility of incorporating traffic calming and mitigation measures at the eastern end of the property."

Council Member Dunbar asked Bonnie Poulos if everything else was agreed upon and if she could explain how the drainage was covered.

Bonnie Poulos, Campus Farm Neighborhood Association representative, thanked the Council for allowing her to enter some thoughts into the record. She said the Campus Farm Neighborhood had been in existence since 1983. They worked very hard on the *Northside Area Plan.* A number of their people were involved in a very contentious Vista Del Norte Annexation in 1987. The restrictions put on zoning as a result of that annexation were to assure people that annexation into the City did not mean that everything was going to change and they were going to urbanize the entire area. She read a statement they had in the *Northside Area Plan,* that "the intent of the Campus Farm Sub-Area Policies is to facilitate a quality development that maintains the low density

character of the neighborhood and supports the semi-rural characteristics of portions of the neighborhood and provides a balance of natural environment and growth in the community."

Ms. Poulos continued they have always viewed themselves as a neighborhood that was a transition from the heavily urbanized area south of the area to the Rillito River and the more rural aspects and the County land to the north of them. They had horse property, they had the University Agricultural Center, Campus Farm and a number of amenities. Limberlost Road was a local street within their neighborhood, between Campbell and First Avenue. It was a substandard street. They had an elementary school about midway between that block and Mountain Avenue. They had the Linear Park just north of them, as part of their neighborhood. They had an immense amount of pedestrian, bicycle, and equestrian traffic that used the area. They were very concerned with how development precedes, especially along the Limberlost corridor.

Ms. Poulos said that presently there was a commercial development going in at Campbell and Limberlost that would have two traffic vehicular access points onto Limberlost and would generate an approximately three thousand cars per day. They had a rezoning in the works for the ten-acre parcel at First and Limberlost, which was proposing a commercial development. That was anticipated to generate over five thousand cars per day. The development on Limberlost, between those two commercial developments, was for forty-nine townhomes and would generate approximately five hundred cars per day, with that development having its only access onto Limberlost Drive. They were very interested in what would happen to the property.

Ms. Poulos said the Malone Farm for years had two houses on the six and a half-acre property. The six and a half acres had primarily served as a percolation area for the drainage that came from the south, toward the Rillito River from Park Avenue. She said probably the most important issue they dealt with when they first looked at the property was drainage. When Jefferson Commons, or Northpoint as it was now called, was built, they were allowed to increase the grade of their property. They were allowed to put holes on their walls so that drainage drained onto adjacent residential properties. She added one of the properties to the north was knee deep in water after the first flood, after Jefferson Commons came in. Ms. Poulos stated the City's drainage policies have proved woefully inadequate to deal with drainage issues they had in their neighborhood north of Limberlost towards the Rillito River. They believed the drainage issue with the drainage basin on the south and eastside of the property would help to collect the drainage from Park Avenue. She said the neighbors adjacent to it at the southeast corner came to talk to them and their major concern was drainage. They felt the plan addressed that issue and she assured the Council they would let them know if the future if it did not.

Ms. Poulos commented on other issues the neighborhood had. Mr. Oxman and Jim Lynch met with their group from the Campus Farm Neighborhood Association's Steering and Land Use Committee on May 3, 2004. She wanted to reiterate several concerns they had. They were supportive of the removal of the restriction to the R-2 zone, provided that the removal was subject to that plan, and that plan only. If a

developer came in a year from now and wanted to build apartments on the site, they did not want the restriction removed. In fact, she said they were told it was either forty-nine townhomes or eighty-three story apartments and the Council could tell what they really wanted. In the interest of promoting single family housing on that parcel and in the interest of having a rezoning they could work with the developer on, they supported the rezoning. They asked for varied rooflines as staff recommended and as was in the report. They asked for limited heights in buildings of twenty-five or twenty-six feet and that had been put into the conditions.

The traffic issue was still something they felt needed work. That is why they asked for the inclusion of condition number fourteen. The reason was that it was not the only development going in right now on that stretch of roadway. They were working with the First and Limberlost rezoning to try to put a traffic median on Limberlost and that would be directly to the west of the property. Therefore, condition number two, C, which asked for a center turn lane, they wanted to make sure that was compatible with traffic being able to make smooth and safe movements in and out of Malone Farm property they were speaking about.

Ms. Poulos said the building heights were also important to them, as they were primarily a single story neighborhood. It was not that they thought single story was the only thing that belonged there, but it had been a beautiful piece of property to those who appreciated open space and that would disappear. They would go from two homes on that property to forty-nine townhomes. They were going to cover fifty percent of that lot with asphalt and rooflines. They wanted to make sure all conditions were adhered to in the development plan and if any changes were made that they were notified and involved in that process.

It was moved by Council Member Dunbar, duly seconded, to approve the request as presented and pass and adopt Ordinance 10044, adding into the record on Section 3, that the building heights shall be limited to a maximum of twenty-five feet measured from the finished grade;" and adding condition fourteen, that "the developer shall work with City Transportation staff to explore the feasibility of incorporating traffic calming and mitigation measures at the eastern end of the property.

Mayor Walkup asked if there was any further discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye:	Council Members Ibarra, West, Dunbar, Scott, and Leal; Vice Mayor Ronstadt and Mayor Walkup
Nay:	None

Ordinance 10044 as amended was declared passed and adopted by a roll call vote of 7 to 0.

12. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced City Manager's communication number 518, dated September 27, 2004, would be received into and made a part of the record. He asked if there was a motion to approve the appointments in the record.

It was moved by Council Member Dunbar, duly seconded, and carried by a voice vote of 7 to 0, to appoint Rita Bartels and Karen Cesare to the Citizens' Water Advisory Committee

Mayor Walkup asked if there were any personal appointments to be made. There were none.

13. ADJOURNMENT: 7:22 p.m.

Mayor Walkup announced that the Council would stand adjourned until its next regularly scheduled meeting to be held Monday, October 4, 2004 at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 W. Alameda, Tucson, Arizona.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 27th day of September, 2004, and do hereby certify that it was an accurate transcription.

_____
DEPUTY CITY CLERK

KSD:sac:jk